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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,907	01/16/2004	Norwood P. Dixon JR.	400200-1004	1511

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EXAMINER	
ALTSCHUL, AMBER L	
ART UNIT	**PAPER NUMBER**
3626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/759,907	DIXON, NORWOOD P.	
	Examiner	Art Unit	
	Amber L. Altschul	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed on February 5, 2007. Claim 1 remains pending. Claim 1 has not been amended. Examiner inadvertently referred to "United States Patent Number US 5,678,562, Sellers, et al." in the rejection comprising the First Office Action. The rejection comprising the First Office Action was actually based on Phipps Patent Number 6,579,231 and is reflected as follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Number US 6,579,231, Phipps, et al., hereinafter Phipps. (Reference A on the attached PTO-892).

4. As per claim 1, Phipps teaches an apparatus for acquiring, storing, and transmitting patient medical data including, (Abstract), a portable unit worn by a subject, comprising a medical monitoring device, a data processing module with memory and transmitter for collecting, monitoring, and storing the subject's physiological data and also issuing the subject's medical alarm conditions via wireless communications network to the appropriate location for expeditious dispatch of assistance.

a housing securable on the body of a patient, (column 3, lines 44-45), i.e. The monitoring device 16 is usually worn by a user, i.e. the subject to be monitored--typically a "patient".

a memory mounted within the housing for storing patient medical data, (column 3, lines 34-43), i.e. the unit 12 is typically comprised of a personal data unit(PDU) 14 and a monitoring device 16. It should be noted that the PDU 14 and the monitoring device 16 do not need to be in separate housings as illustrated in FIG. 1, but may be confined in a single unit as indicated at 12. The system is generally comprised of the PDU 14 and the monitoring device 16, in conjunction with a Central Reporting System (CRS) 18, a Subject/Device Database 20, and a communications network 22 as shown.

circuitry mounted within the housing for inputting patient medical data and other data to and for retrieving patient medical data and other data from the memory, (column 3, lines 66-67 and column 4, lines 1-5), i.e. the PDU 14 may also include a long-range navigation system receiver such as a global positioning system (GPS) receiver; data ports for uploading and downloading information such as medical information, addresses, and thresholds; and a number of input/output devices such as an LCD display monitor, push buttons, a beeper, and a vibration mechanism;

a keyboard mounted on the housing for inputting data to and retrieving data from the memory, (column 3, lines 66-67 and column 4, lines 1-5), i.e. the PDU 14 may also include a long-range navigation system receiver such as a global positioning system (GPS) receiver; data ports for uploading and downloading information such as medical information, addresses, and thresholds; and a number of input/output devices such as

an LCD display monitor, push buttons, a beeper, and a vibration mechanism; (Examiner interprets push buttons to encompass a type of keyboard.)

a display mounted on the housing for displaying data inputted to and retrieved from the memory, (column 3, lines 66-67 and column 4, lines 1-5), i.e. the PDU 14 may also include a long-range navigation system receiver such as a global positioning system (GPS) receiver; data ports for uploading and downloading information such as medical information, addresses, and thresholds; and a number of input/output devices such as an LCD display monitor, push buttons, a beeper, and a vibration mechanism;

at least one sensor mounted in the housing for contact with the skin of a patient to acquire patient medical data, (column 4, line 67 and column 5, lines 1-5), i.e. an example shown in FIG. 2 is a wrist or arm band 38 that can monitor pulse, blood pressure, or chemicals secreted by the subject's skin. Another example is a heart monitoring device that can detect heart fibrillation. Another example is a device which fits on a finger for measuring blood oxygenation;

a GPS detector for inputting patient location data to the memory, (column 6, lines 15-22), i.e. The PDU 14 may also include a GPS receiver 60 which receives signals from GPS satellites, and determines the PDU's current location. The GPS receiver 60 is programmed to write the current coordinates to a place in PDU memory 54 at fixed intervals of time (i.e., once per minute). The PDU memory 54 stores current GPS coordinates, for a pre-determined period, and may also store historical coordinates, up to a certain time period;

at lease one slot extending into the housing for receiving blood- bearing strips and thereby acquiring patient medical data, (column5, lines 6-12), i.e. Yet another example is a small chip that may be implanted in the subject's body for taking measurements and/or samples. In such a case, the device would, for example, be able to monitor blood sugar levels for a subject with diabetes. The monitoring device sends data to the PDU, indicating the current status of the condition that is being monitored;

a modem mounted in the housing for receiving patient medical data and GPS data from the memory, (column 6, lines 38-44), i.e. A communications port 48 is used to transfer data to and from an external computer, via a direct cable connection. When the download button 44 is depressed, select data values from memory 54 are output to an external computer via the communications port 48; when the store button 46 is depressed, selected data values are input from an external computer and stored in PDU memory 54; and

connection apparatus mounted in the housing for connecting the modem to a preselected communication system, (claim 12), i.e. external remote device is connected to said central reporting system.

Response to Arguments

5. Applicant's arguments filed February 5, 2007 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed February 5, 2007.

(A) At page 2, paragraphs 1-3 of the February 5, 2007 response, Applicant argues that Phipps does not disclose the use of a keyboard.

In response, the Examiner respectfully disagrees. It is readily apparent that Phipps discloses the use of push buttons for status 42, download 44, store 46, and 911 call 50. The PDU 14 also has a connection for receiving input from the monitoring device 16. All data received from the monitoring device 16 is stored in memory 54. Output means include displays to an LCD screen 40 and downloads via the computer, (para. 6, lines 27-32). Applicant claims a keyboard mounted on the housing for inputting data to and retrieving data from the memory. In addition, Phipps discloses the PDU 14 may also include a long-range navigation system receiver such as a global positioning system (GPS) receiver; data ports for uploading and downloading information such as medical information, addresses, and thresholds; and a number of input/output devices such as an LCD display monitor, push buttons, a beeper, and a vibration mechanism, (column 3, lines 66-67, column 4, lines 1-5). Therefore, it follows that Phipps' 'use of push buttons' is essentially equivalent to a keyboard. Thus, the Examiner respectfully contends that Phipps' push buttons is an art recognized equivalent to the keyboard.

(B) At page 2, paragraphs 4-5 of the February 5, 2007 response, Applicant argues that Phipps does not disclose at least one sensor mounted in the housing for contact with the skin of a patient.

In response, the Examiner respectfully disagrees. It is readily apparent that Phipps discloses a wrist or arm band 38 that can monitor pulse, blood pressure, or chemicals secreted by the subject's skin, (column 3, lines 66-67 and column 4, lines 1-5). It is obvious that the wrist or armband must include a sensor that has contact with

the skin of the patient in order to monitor what chemicals are secreted by the subject's skin. Therefore, it follows that Phipps' 'use of a wrist or arm band 38 that can monitor pulse, blood pressure, or chemicals secreted by the subject's skin' is essentially equivalent to at least one sensor mounted in the housing for contact with the skin of a patient. Thus, the Examiner respectfully contends that Phipps' a wrist or arm band 38 that can monitor pulse, blood pressure, or chemicals secreted by the subject's skin is an art recognized equivalent to at least one sensor mounted in the housing for contact with the skin of a patient.

(C) At page 3, paragraphs 2-3 of the February 5, 2007 response, Applicant argues that Phipps does not disclose at least one slot extending into the housing for receiving blood-bearing strips.

In response, the Examiner respectfully disagrees. It is readily apparent that Phipps discloses a small chip that may be implanted in the subject's body for taking measurements and/or samples. In such a case, the device would, for example, be able to monitor blood sugar levels for a subject with diabetes. The monitoring device sends data to the PDU, indicating the current status of the condition that is being monitored, (column 5, lines 6-12). Therefore, it follows that Phipps' 'a small chip that may be implanted in the subject's body for taking measurements and/or samples. In such a case, the device would, for example, be able to monitor blood sugar levels for a subject with diabetes. The monitoring device sends data to the PDU, indicating the current status of the condition that is being monitored' is essentially equivalent to at least one slot extending into the housing for receiving blood-bearing strips. Thus, the Examiner

respectfully contends that Phipps' a small chip that may be implanted in the subject's body for taking measurements and/or samples. In such a case, the device would, for example, be able to monitor blood sugar levels for a subject with diabetes. The monitoring device sends data to the PDU, indicating the current status of the condition that is being monitored is an art recognized equivalent to at least one slot extending into the housing for receiving blood-bearing strips.

6. Applicant's arguments with respect to claim 1 has been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Lester et al. (U.S. Patent No. US 4129125 A) teaches Patient monitoring system.

-Stinton, et al. (U.S. Patent No. US 5204670 A) teaches Adaptable electric monitoring and identification system.

-Russek, et al. (U.S. Patent No. US 5319355 A) teaches Alarm for patient monitor and life support equipment system.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amber L. Altschul whose telephone number is 571-270-1362. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALA
April 3, 2007

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